

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 223 of 1996

with

CIVIL REVISION APPLICATION No 1639 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ANANDIBEN WD/O CHHABAJI MAGANJI BAROT

Versus

NATVARLAL MULJIBHAI PARMAR

Appearance:

1. Appeal from Order No. 223 of 1996
MR DA BAMBHANIA for Appellants
MR VIJAY H PATEL for Respondent
2. Civil Revision Application No 1639 of 1996
MR DA BAMBHANIA for Petitioners
MR VIJAY H.PATEL for Respondent

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 05/12/96

ORAL JUDGEMENT

1. Heard the learned counsel for the respective parties in both these matters. The appeal is admitted and rule is issued in the Revision. Mr. V.H.Patel waives service on behalf of the respondent in both proceedings.

2. At the joint request of the learned counsel for the parties, both these proceedings are taken up for final hearing today.

3. As a result of the hearing and discussion which took place during the course of the hearing, a consensus has been arrived at between the learned counsel, with due reflection, and after consulting their respective clients on the basis of which the following directions are given.

(i) The appellants in appeal(petitioners in the Revision) shall deposit in this Court a sum of Rs.19,000/-, latest by the close of working hours on 12th December, 1996. No extension shall be sought nor granted for making this deposit. On the deposit being made, the respondent in appeal (opponent in the Revision) shall be entitled to withdraw the said amount. The withdrawal of this amount shall be treated as the amount received by the said party in execution proceedings namely; Execution Application No.22/95(of the Small Causes Court, Ahmedabad), and shall be deemed to be payment made in execution of the decree in question.

(ii) On the basis of the aforesaid consensus, it is directed that the City Civil Court shall take up hearing of Civil Suit No. 3159/95 on an urgent basis, and shall decide the same as expeditiously as possible, and not later than 15th March, 1997. The learned counsel for the respective parties as also their respective clients assure this Court that they shall co-operate with the trial court in the disposal of the said suit as directed.

(iii) Pending the said suit, the possession of the appellants-petitioners shall be protected by stay of further proceedings of Execution Application No.22/95(in the Small Causes Court, Ahmedabad). It is further clarified that the said Execution Application is stayed only upto 15th March, 1997 or until the disposal of the aforesaid suit by the City Civil Court, whichever

is earlier.

- (iv) As a necessary consequence of this order, the condonation application made by the appellants-petitioners in the appeal before the Bench of the Small Causes Court, Ahmedabad, arising from the decree in Execution shall be deemed to be granted. The Appellate Bench of the Small Causes Court, Ahmedabad shall therefore, treat the said appeal as duly filed, register the same and proceed with the hearing and disposal thereof in accordance with law. It shall be open to the appellants-applicants to apply to the Appellate Bench of the Small Causes Court, Ahmedabad, for early hearing of the appeal in view of the facts and circumstances of the case, and in view of the directions given herein.

4. In view of this order, the A.O. as also the Revision stand disposed off with no order as to costs.

5. Direct service permitted.

amp/-